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In re Application of :
VON SCHUCKMANN, Alfred, et al. :
U.S. Application No.: 09/646,140 :
PCT No.: PCT/SE99/00416 :
International Filing Date: 16 March 1999 :
Priority Date: 17 March 1998 :
Attorney's Docket No.: 06275-218001 :
For: INHALATION DEVICE :

NOTIFICATION

Applicants filed a "Request For Corrected Official Filing Receipt." In effect, applicants seek to have the existing Form PCT/DO/EO/903 vacated and for the United States Patent and Trademark Office (PTO) to issue a corrected Form PCT/DO/EO/903 and a corrected filing receipt.

BACKGROUND

On 16 March 1999, applicants filed international application PCT/SE99/00416, which claimed a priority date of 17 March 1998 and which designated the United States. A copy of the international application was communicated to the United States Patent And Trademark Office ("USPTO") by the International Bureau ("IB") on 23 September 1999.

On 13 September 2000, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, *inter alia*, the basic national fee.

On 17 October 2000, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration in compliance with 37 CFR 1.497 (a)-(b) and the fee for late filing of the oath or declaration were required.

On 15 November 2000, applicants filed Response to Notification of Missing Requirements, accompanied by, *inter alia*, a combined declaration and power of attorney and the fee for late filing of the declaration.

On 20 April 2001, applicants filed the instant request to amend the "filing date" to 13 September 2000.

DISCUSSION

The date under the heading "filing date" on the filing receipt of a national stage application is the date upon which applicant completes the requirements under 35 U.S.C. §371(c). MPEP §1895.01 (A) (August 2001). Those requirements are submission of: (1) the national fee; (2) a copy of the international application; (3) a translation of the application if it is not in English; and (4) an oath or declaration of the inventor in compliance with 37 CFR 1.497(a)-(b). 35 U.S.C. §371(c).

The record reflects that on 13 September 2000, PTO had received, *inter alia*, (1) the basic national fee and (2) a copy of the international application. Regarding (3), the international application was published in English on 23 September 1999.

On 15 November 2000, PTO received a combined declaration and power of attorney. However, the declaration is not in compliance with 37 CFR 1.497(a)-(b). Pages 4 and 5 of the declaration both identify Schuckmann and Tiedemann, but are separately signed by the inventors. This suggests that the declaration that was filed is in fact a composite declaration assembled by separately executed declarations by Schuckmann and Tiedemann. Because the complete declaration that was executed by Schuckmann or Tiedemann has not been furnished, the requirements under 37 CFR 1.497(a) have not been satisfied.

As such, the filing receipt mailed 28 December 2000 and the Notice of Acceptance (Form PCT/DO/EO/903) mailed 06 December 2000, each indicating that the 35 U.S.C. §371 requirements were met on 15 November 2000, issued in error.

CONCLUSION

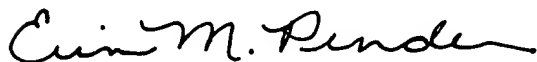
As discussed above, the request to correct the filing receipt is **REFUSED**.

The Notice of Acceptance (Form PCT/DO/EO/903) mailed 06 December 2000 is **VACATED**.

A proper response, i.e. an oath or a declaration in compliance with 37 CFR 1.497(a)-(b), must be filed within **TWO (2) MONTHS** from the mail date of this decision. Failure to timely file the proper response will result in abandonment of this application. No additional petition fee is required. This time period for reply may be extended under the provisions of 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of this letter marked to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to await receipt of the declaration.



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